19 46 **File No.** O Trusts/46

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Legal Department

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Subject:—

Opinions Under the

Inolian Trusts Act, 1939

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O. Trusts/46

File No.

Gen. 194 e.

C O N T E N T S.

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It appears from the further facts stated by P.&S.D. that the fund now known as "The Bombay Presidency War and Relief Fund" was constituted for helping soldiers incapacitated in the First World War and the dependents of soldiers who may have died in that war. A few years after the fund was constituted the Committee of Management decided that "in the event of any balance remaining after all post bellum claims shall have been met, such balance should be presented to the Military Authorities for distribution among Military charities". The trustees of a charitable fund have no right to apply the fund cypres without the sanction of the Court. Unless therefore at the time when subscriptions to the fund were invited, it had been announced that the balance remaining after helping soldiers incapacitated bythe first world war or the dependants of those who might have died fighting during the war, would be applied for distribution amongst Military charities, the trustees would have no authority to do so without the Courtis sanction.

When owing to lapse of time or change of circumstance a fund collected or donated for a charitable object can no longer be applied for that object the Court may on an application by the trustees direct the fund to be applied cypres, i.e., for objects as nearlyas possible similar to the objects of the original trust. Assuming, therefore, that "the Bombay PresidencyWar and Relief Fund" cannot now be applied for the objects for which it was started the fund may with th sanction of the Court be handed over to the Provincial Sailors, Soldiers and Airmen's Board.

Id/- P.H.K.
5/4/46.
Remembrancer of Legal Affairs.

U.R.to P.& S.D..No.2633, dated the 6th April 1946.

L.D.R.I.No.4776 dated 29-5-1946.

Seen and returned.

The Financial Secretary to Govt. of Aden is a juridical person under cl.3(1) of the Sultan of Shihr and Mukkalla's Fund Ordinance, 1945.

Id/- R.T.K.
1/7/

U.O.R. to F.& S.D.No.5012 dt. 15-7-46

RHB.
11.7.

Office of the R.L.A.

As regards the cash balances and the Government securities representing the investments of the amounts of the various Funds, para.1 of the draft H.D. at page 23 ante coupled with the transfer of the securities to the proposed trustees and the handing over to them of the cash balances, would be sufficient to constitute valid trusts thereof. For the expression "Government considers it desirable that" in line 5 of the draft, the expression "the Government is pleased to appoint" might be substituted. As regards the Widows Fund mentioned in that draft Government Resolution the expression "War Widows" would not be an adequate description of the beneficiaries of that fund. It might be better to substitute for that expression the words "widows of Indian Servicemenwho were killed or had died in the First World War or World War II".

Peragraph 2 of that draft Government Resolution should be deleted as a valid trust of immoveable properties cannot be created by a Government Resolution. A trust deed will have to be executed for vesting the existing Hostel buildings in the proposed trustees. H.D. may also be informed that it would not be feasible to include in the proposed trust deed relating to hostels any buildings which may be created hereafter. For that purpose supplemental deeds would have to be executed. Before necessary draft of the trust deed is prepared H.D. may be requested to send detailed description of the existing hostel buildings and the respective locations thereof.

Id/- P.N.M.
20/9/46.
Rememb rancer of Legal Affairs.

U.O.R.to H.D.(Spl.),No.547-P, dated the 20th September 1946.

RHB.
11.7.